

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CARLOS OSBALDO OLIVARES, JR.,

Plaintiff,

VS.

SECRETARY MICHAEL POMPEO,
SECRETARY, U.S. DEPARTMENT OF
STATE; U.S. DEPARTMENT OF
STATE, U.S. ATTY GENERAL
WILLIAM BARR,

Defendants.

SA-20-CV-00578-FB

ORDER

Before the Court is the above-styled cause of action, which was referred to the undersigned for all pretrial proceedings. On this day, the parties appeared through counsel at a telephonic initial pretrial conference. At the conference, the parties discussed the undersigned's recent report and recommendation on Defendants' partial motion to dismiss. The report recommended that Defendants' partial motion to dismiss be granted, leaving pending only Count I, Plaintiff's claim for a declaratory judgment under the Immigration and Nationality Act, 8 U.S.C. § 1503(a), against Defendant Secretary Michael Pompeo, in his official capacity as Secretary of the U.S. Department of State. In their motion, Defendants had also requested that the Court strike Plaintiff's jury demand because there is no right to a jury trial for Section 1503(a) claims. The undersigned's report did not address this request. Plaintiff indicated at the hearing that Defendants are likely correct on this point, but asked for the opportunity to investigate further and object to the striking of the jury demand if the District Court dismisses Counts II and III as the undersigned recommended. Accordingly, if the District Court adopts the report and recommendation and dismisses all claims except for Plaintiff's claim under Section

1503(a), Plaintiff will have seven days from the date of the District Court's order to lodge any objection to the Court granting Defendants' request to strike the jury demand as unopposed.

IT IS THEREFORE ORDERED that Plaintiff has **seven days** from the date of the District Court's order on the undersigned's report and recommendation (if the Court adopts the report) to lodge any objections to the Court striking the jury demand in this case.

SIGNED this 2nd day of December, 2020.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE